



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

Gerald C. Mann

~~JOHN BEN SHEPHERD~~  
ATTORNEY GENERAL

Hon. Edgar Maddox  
County Attorney  
Palo Pinto County  
Palo Pinto, Texas

Opinion No. O-3445

Re: Transference of property from the Santo  
Independent School District to the Big Sunday  
Common School District Number 11 of Erath  
County.

Dear Sir:

We have your letter requesting our opinion on the following  
state of facts:

On September 11, 1935, the County Board of Trustees of Erath County was requested by Mr. H. H. Allen, the owner of a 251-acre tract of land, to transfer such land from the Big Sunday Common School District No. 11 of Erath County to the Santo Independent School District of Erath and Palo Pinto Counties. On September 17, 1935, the trustees of the Big Sunday District directed a letter to the County Board of Trustees advising their agreement to the transfer of the H. H. Allen 251-acre tract to the Santo Independent School District. The record also indicates that the trustees of the Santo Independent School District were agreeable to the acceptance of such land as a part of their district. Subsequently, that is, on July 29, 1936, the County Board of Trustees of Erath County officially transferred this property to the Santo Independent School District. In the year 1938 the Santo Independent School District and the Buck Creek Common School District No. 41 of Palo Pinto County were consolidated and subsequently an assumption election was held spreading the outstanding bonded indebtedness over the newly consolidated district, and on August 13, 1938, an election was held wherein the qualified property taxpaying voters of the Santo Independent School District authorized the issuance of \$10,000 in bonds. The transcript of the proceedings had in connection with the consolidation election, the assumption election and the bond election, was submitted to the Attorney General's office for approval, and it appears from such proceedings that at all times the H. H. Allen 251-acre tract of land was a part of the Santo Independent School District.

Subsequent to the action taken by the County Board of Trustees relative to the transference of the H. H. Allen tract, there was a Validating Act adopted by the Forty-fourth Legislature, Third Called Session, carried forward in the Vernon's Annotated Civil Statutes as Article 2742n. This Act ratified, confirmed and validated all acts of County Boards of School Trustees in any county in this State in laying out and attempting to establish, combine, abolish or change any independent or common school district in the county, over which such County Board of Trustees had jurisdiction under and by virtue of Chapter 339, Acts of the Regular Session of the Forty-fourth Legislature, 1935. In view of this Act and the certified proceedings submitted to the Attorney General in connection with the approval and issuance of the bonds of 1938, we think the conclusion was properly

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reached that the action theretofore taken by the County Board of School Trustees in Erath County had effectively transferred the tract of land in question.

We have carefully studied all actions of the County Board of Trustees of Erath County relative to the H. H. Allen 251-acre tract of land, and have reached the conclusion that such tract is legally a part of the Santo Independent School District; that the order of October 24, 1939, adopted by the present County Board of School Trustees is ineffective. In this order the County Board concluded that the action of the County Board in 1935, with reference to the transference of this land, was illegal and thereupon endeavored to rescind such transfer.

We think the conclusion of the Board as to the illegality of the transfer incorrect, and that the H. H. Allen tract must remain a part of the Santo Independent School District until such time as proper legal steps are taken to exclude it therefrom.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Clarence E. Crowe  
Clarence E. Crowe, Assistant

APPROVED MAY 16, 1941

/s/ Grover Sellers

FIRST ASSISTANT ATTORNEY GENERAL

APPROVED: OPINION COMMITTEE

BY: CHAIRMAN

CEC-s:wb